

ASSEMBLY BILL

No. 2509

Introduced by Assembly Member Steinberg

February 24, 2000

An act to amend Sections 92, 98.1, 98.2, 98.7, 203.1, 218.5, 226, 226.3, 240, 350, 351, 1174, 1174.5, 1194.2, and 1197.1 of, and to add Sections 100.6, 100.7, 218.6, 226.7, and 245 to, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2509, as introduced, Steinberg. Employment: remedies for employment law violations.

Existing law authorizes the Labor Commissioner, his or her deputies, and agents to issue subpoenas for the purpose of carrying out the laws which the Division of Labor Standards Enforcement is responsible for enforcing.

This bill would authorize using a prescribed notice in lieu of a subpoena in adjudicatory proceedings before the Labor Commissioner to compel attendance of a party, person for whose benefit the proceeding is prosecuted or defended, or any officer, director, or managing agent thereof. The notice would have the same force and effect as a subpoena.

Existing law authorizes the Labor Commissioner to conduct administrative hearings and issue orders, decisions, and awards for recovery of wages, penalties, and other demands for compensation properly before the Division of Labor Standards Enforcement or the commissioner. Existing law requires these awards for unpaid wages to accrue interest at

a specified adjusted annual rate determined under the tax laws.

This bill would instead require this rate to be the same as the legal rate of interest payable upon a contract obligation in default where the contract does not otherwise specify the rate of interest.

Existing law provides that any order, decision, or award made by the Labor Commissioner in these administrative proceedings may be appealed by filing an action in the municipal or superior court. If the appealing party is unsuccessful, existing law requires the court to award costs and attorney's fees to the other parties.

This bill would exempt those appeal proceedings from provisions respecting submission of certain matters in specified municipal and superior courts to mandatory arbitration. The bill would require employers filing such an appeal to post a prescribed undertaking and would provide for disposition thereof. The bill would require an award of costs and attorney's fees against an unsuccessful appellant regardless of whether the successful party is represented by his or her own attorney or by the Labor Commissioner.

Under existing law, any person may file a complaint for unlawful discharge or unlawful discrimination with the Labor Commissioner, who is empowered to provide prescribed relief if the complaint is found meritorious. Existing law requires that, if the Labor Commissioner dismisses such a complaint, the Labor Commissioner is required to notify the complainant of the right to bring a court action or to file a complaint against the state program with the United States Department of Labor.

This bill would specify that if a timely complaint is filed against the state program with the United States Department of Labor, the Labor Commissioner's decision dismissing the complaint is vacated pending issuance of findings by the United States Department of Labor. The bill would require the Labor Commissioner, within 15 days of receiving those findings, either to notify the parties of the reopening of the investigation or to issue a new determination of the complaint. The bill would also expressly provide that an employee may file a civil judicial action without exhausting any



administrative remedy under the jurisdiction of the Labor Commissioner, and may in such a civil action seek any relief that would be available from the Labor Commissioner. The bill would make the limitation period for filing a complaint with the Labor Commissioner inapplicable to such a civil action.

The bill would make defined substantial shareholders and parents subject to liability for wages unpaid and owed by a corporation, as specified. The bill would make successors to an employer liable for unpaid wages owed by the employer under specified circumstances.

Under existing law, an employer in the building and construction industry is liable for a penalty of up to 30 days' wages and fringe benefits to any employee paid by a check, draft, or voucher that is drawn on a nonexistent account or that is dishonored for insufficient funds if the instrument is presented for payment within 30 days of receipt. This penalty does not apply if the employer can establish that the violation was unintentional.

This bill would make this penalty applicable to all employers and would make related conforming and technical, nonsubstantive changes.

Under existing law, the prevailing party, with certain exceptions, is entitled to an award of attorney's fees in an action brought for nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions.

This bill would add an express exception for employee actions to recover underpayment of the minimum wage or overtime wages, in which a prevailing employee but not the employer is expressly authorized to recover attorney's fees. The bill would also require the court, in an action to recover unpaid wages, to award interest, as specified.

Under existing law, employers are required to provide employees semimonthly, with payment of wages, an itemized statement listing gross wages, total hours worked of employees paid by the hour, specified deductions, net wages, and certain other information. Violation of these requirements is a misdemeanor. Under existing law, an employee suffering injury as a result of the employer's knowing or intentional failure to comply with this

requirement is entitled to recover the greater of actual damages or \$100, plus costs and reasonable attorney's fees.

This bill would provide that total hours need not be disclosed for salaried employees exempt from payment of overtime compensation. The bill would impose a state-mandated local program by requiring disclosure of the number of piece-rate units and the applicable piece rate for employees paid on that basis and by requiring disclosure of all applicable hourly rates and the number of hours worked by the employee at each rate. The bill would revise the liability of employers for knowing or intentional noncompliance with this disclosure requirement to entitle an aggrieved employee to recover the greater of actual damages or penal damages of \$100 for each pay period in which the violation occurs up to \$10,000, plus costs and reasonable attorney's fees. The bill would authorize an aggrieved employee to seek recovery in administrative proceedings before the Labor Commissioner or in a civil action.

Existing law makes employers liable for prescribed civil penalties, based upon the number of employees and number of citations, for failure to provide employee wage deduction statements or keep certain employee pay records.

This bill would specify that if the employer fails to maintain records identifying the affected employees, these penalties are to be computed in accordance with a prescribed formula. The bill would make a technical, clarifying change in related provisions that specify employer record-keeping requirements.

Existing law authorizes the Industrial Welfare Commission to adopt orders respecting wages, hours, and working conditions.

This bill would make any employer that requires any employee to work during a meal or rest period mandated by an order of the commission subject to a civil penalty of \$50 per violation and liable to the employee for twice the employee's average hourly or piecework pay. An aggrieved employee could bring an administrative action before the Labor Commissioner or could commence a civil action for recovery of these amounts, and if the employee prevails in such a civil



action, the employee would be entitled to recover attorney's fees.

Existing law authorizes the Labor Commissioner to require an employer to deposit a bond if the employer is convicted of violating specified provisions respecting paying employees or if a judgment for unpaid wages against the employer remains unsatisfied for 10 days after expiration of the appeal period with no appeal on file. The bond is conditioned on the employer paying employees for up to 6 months in compliance with specified laws and payment of any judgment for unpaid wages.

This bill would revise these provisions to make the authorization for a bond requirement applicable to unpaid judgments for interest, penalties, or other demands for compensation within the jurisdiction of the Labor Commissioner, in addition to judgments for unpaid wages. The bond would also be conditioned on payment of such an unsatisfied judgment. The bill would make conforming related changes.

Under existing law, the Labor Commissioner is empowered to implement administrative proceedings for the recovery of unpaid wages and penalties.

This bill would provide that whenever the Labor Commissioner makes an award based upon a finding that the employer has engaged in a pattern or practice of violating wage and hour laws, the Labor Commissioner may require the employer to post a prescribed notice of the violation with specified information for not less than 60 days. The bill would specify a civil penalty for violation of the posting requirement.

Existing law prohibits employers from receiving or deducting gratuities intended for employees from wages otherwise payable. Violation is a misdemeanor. Under existing law, this prohibition is not applicable to an employee that has a guaranteed wage or salary that is at least the higher of the federal or state minimum wage.

This bill would delete the above exemption, thereby imposing a state-mandated local program. As so revised, the bill would make these provisions applicable to amounts paid by patrons directly to a dancer subject to specified orders of the commission. The bill would also impose a state-mandated



local program by requiring employers to remit to their employees gratuities paid by credit card, without deduction for credit card fees, not later than the next regular payday following the date the credit card payment is authorized by the patron.

Existing law requires employers to keep specified payroll records.

This bill would require these payroll records to identify the number of piece-rate units earned by employees and any applicable piece rate paid to employees.

Existing law requires employers to keep records showing the names and addresses of employees and the ages of minor employees and makes an employer's willful failure to maintain these records or payroll records subject to a civil penalty of \$500.

This bill would revise the amount of the civil penalty to \$100 per employee for each payroll period up to a maximum of 3 years. The bill would also make these civil penalties applicable to an employer that fails to keep records required by wage orders of the commission.

Under existing law, an aggrieved employee, or the Department of Industrial Relations or its Division of Labor Standards Enforcement, with or without the employee's consent, may bring a civil action to recover unpaid minimum wages or overtime compensation, interest, costs, and reasonable attorney's fees. In these civil actions to recover unpaid minimum wages, the employee is entitled to additional damages equal to the unpaid wages and interest thereon, except that if the employer can show that the act or omission giving rise to the violation was in good faith and that the employer had reasonable grounds for believing there was no violation, the court may refuse to award those damages.

This bill would make technical, clarifying changes in these provisions and also make them applicable to proceedings before the Labor Commissioner.

Under existing law, any employer or person who pays or causes to be paid less than the minimum wage prescribed by order of the commission is subject to prescribed civil penalties assessed and collected by the Labor Commissioner in proceedings initiated by the issuance of a citation.



This bill would include in these proceedings restitution of the underpaid wages, interest, and statutory liquidated damages.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 92 of the Labor Code is amended
2 to read:

3 92. (a) The Labor Commissioner; *and his or her*
4 *deputies and agents;* may issue ~~subpenas~~ *subpoenas* to
5 compel the attendance of witnesses and parties and the
6 production of books, papers and records; administer
7 oaths; examine witnesses under oath; take the
8 verification, acknowledgment, or proof of written
9 instruments; and take depositions and affidavits for the
10 purpose of carrying out the provisions of this code and all
11 laws ~~which~~ *that* the division is to enforce.

12 (b) *In any adjudicatory hearing before the Labor*
13 *Commissioner, a notice in lieu of a subpoena may be used*
14 *to compel the attendance of a party, a person for whose*
15 *benefit the proceeding is prosecuted or defended, or any*
16 *officer, director, or managing agent of a party or such a*
17 *person. The service of a subpoena in these cases is not*
18 *required if written notice requesting the witness to*
19 *attend, with the time and place of the hearing, is served*
20 *upon the party or person, or his or her attorney of record.*
21 *The notice shall be served at least 10 days before the time*
22 *requested for attendance unless the hearing officer*
23 *prescribes a shorter time. The giving of the notice shall*
24 *have the same effect as service of a subpoena on the*
25 *witness. Section 1013 of the Code of Civil Procedure shall*
26 *be applicable to service of these notices.*

1 (c) *The notice specified in subdivision (b) may*
2 *include a request that the party or person bring with him*
3 *or her books, papers, records, documents, or other things.*
4 *The notice shall state the exact materials or things to be*
5 *produced and that the party or person has them in his or*
6 *her possession or under his or her control.*

7 (d) *A party or person required to attend or produce*
8 *records at a hearing pursuant to notice under subdivision*
9 *(b) may object to the notice as provided in Section*
10 *11450.30 of the Government Code.*

11 (e) *Notice under subdivision (b) has the same force*
12 *and effect as a subpoena issued by the Labor*
13 *Commissioner pursuant to subdivision (a) and may be*
14 *enforced, and willful disobedience punished, in*
15 *accordance with Section 93.*

16 SEC. 2. Section 98.1 of the Labor Code is amended to
17 read:

18 98.1. (a) Within 15 days after the hearing is
19 concluded, the Labor Commissioner shall file in the office
20 of the division a copy of the order, decision, or award. The
21 order, decision, or award shall include a summary of the
22 hearing and the reasons for the decision. Upon filing of
23 the order, decision, or award, the Labor Commissioner
24 shall serve a copy of the decision personally or by
25 first-class mail on the parties. The notice shall also advise
26 the parties of their right to appeal the decision or award
27 and further advise the parties that failure to do so within
28 the period prescribed by this chapter shall result in the
29 decision or award becoming final and enforceable as a
30 judgment by the appropriate municipal or superior court,
31 in accordance with the appropriate rules of jurisdiction.

32 (b) For the purpose of this section, an award shall
33 include any sums found owing, damages proved, and any
34 penalties awarded pursuant to this code.

35 (c) All awards granted pursuant to a hearing under
36 this chapter shall accrue interest on all due and unpaid
37 wages at the ~~adjusted—annual same rate—established~~
38 ~~pursuant to—as prescribed by subdivision (b) of Section~~
39 ~~19269 3289 of the Revenue and Taxation Civil Code.~~ The
40 interest shall ~~run~~ *accrue* until the wages are paid from the

1 date that the wages were due and payable as provided in
2 Part 1 (commencing with Section 200) of Division 2.

3 SEC. 3. Section 98.2 of the Labor Code is amended to
4 read:

5 98.2. (a) Within 10 days after service of notice of an
6 order, decision, or award the parties may seek review by
7 filing an appeal to the municipal or superior court, in
8 accordance with the appropriate rules of jurisdiction,
9 where the appeal shall be heard de novo. A copy of the
10 appeal request shall be served upon the Labor
11 Commissioner by the appellant. For purposes of
12 computing the 10-day period after service, Section 1013
13 of the Code of Civil Procedure shall be applicable. *The*
14 *appeal proceedings in the municipal or superior court*
15 *shall be exempt from Section 1141.11 of the Code of Civil*
16 *Procedure.*

17 (b) *Whenever an employer files an appeal pursuant to*
18 *this section, the employer shall post an undertaking with*
19 *the reviewing court in the amount of the order, decision,*
20 *or award. The undertaking shall consist of an appeal bond*
21 *issued by a licensed surety or a cash deposit with the court*
22 *in the amount of the order, decision, or award. The*
23 *employer shall provide written notification to the other*
24 *parties and the Labor Commissioner of the posting of the*
25 *undertaking. The undertaking shall be on the condition*
26 *that, if any judgment is entered in favor of the employee,*
27 *the employer shall pay the amount owed pursuant to the*
28 *judgment, and if the appeal is withdrawn or dismissed*
29 *without entry of judgment, the employer shall pay the*
30 *amount owed pursuant to the order, decision, or award of*
31 *the Labor Commissioner unless the parties have executed*
32 *a settlement agreement for payment of some other*
33 *amount, in which case the employer shall pay the amount*
34 *that the employer is obligated to pay under the terms of*
35 *the settlement agreement. If the employer fails to pay the*
36 *amount owed within 10 days of entry of the judgment,*
37 *dismissal, or withdrawal of the appeal, or the execution of*
38 *a settlement agreement, a portion of the undertaking*
39 *equal to the amount owed, or the entire undertaking if*

1 *the amount owed exceeds the undertaking, shall be*
2 *forfeited to the employee.*

3 (c) If the party seeking review by filing an appeal to
4 the municipal or superior court is unsuccessful in the
5 appeal, the court shall determine the costs and reasonable
6 ~~attorneys'~~ attorney's fees incurred by the other parties to
7 the appeal, *regardless of whether the successful party is*
8 *represented by his or her attorney or by the Labor*
9 *Commissioner pursuant to Section 98.4, and shall assess*
10 *that amount as a cost upon the party filing the appeal.*

11 ~~(e)~~

12 (d) If no notice of appeal of the order, decision, or
13 award is filed within the period set forth in subdivision
14 (a), the order, decision, or award shall, in the absence of
15 fraud, be deemed the final order.

16 ~~(d)~~

17 (e) The Labor Commissioner shall file, within 10 days
18 of the order becoming final pursuant to subdivision ~~(e)~~
19 (d), a certified copy of the final order with the clerk of the
20 municipal or superior court, in accordance with the
21 appropriate rules of jurisdiction, of the appropriate
22 county unless a settlement has been reached by the
23 parties and approved by the Labor Commissioner.
24 Judgment shall be entered immediately by the court
25 clerk in conformity therewith. The judgment so entered
26 shall have the same force and effect as, and shall be
27 subject to all of the provisions of law relating to, a
28 judgment in a civil action, and may be enforced in the
29 same manner as any other judgment of the court in which
30 it is entered. Enforcement of the judgment shall receive
31 court priority.

32 ~~(e)~~

33 (f) In order to ensure *that* judgments are satisfied, the
34 Labor Commissioner may serve upon the judgment
35 debtor, personally or by first-class mail at the last known
36 address of the judgment debtor listed with the division,
37 a form similar to, and requiring the reporting of the same
38 information as, the form approved or adopted by the
39 Judicial Council for purposes of subdivision ~~(b)~~ (a) of
40 Section ~~417.19~~ 116.830 of the Code of Civil Procedure to

1 assist in identifying the nature and location of any assets
2 of the judgment debtor.

3 The judgment debtor shall complete the form and
4 cause it to be delivered to the division at the address listed
5 on the form within 35 days after the form has been served
6 on the judgment debtor, unless the judgment has been
7 satisfied. In case of willful failure by the judgment debtor
8 to comply with this subdivision, the division or the
9 judgment creditor may request the court to apply the
10 sanctions provided in Section 708.170 of the Code of Civil
11 Procedure.

12 ~~(f)–~~

13 (g) Notwithstanding subdivision ~~(d)~~ (e), the Labor
14 Commissioner may stay execution of any judgment
15 entered upon an order, decision, or award ~~which~~ *that* has
16 become final upon good cause appearing ~~therefore~~
17 *therefor* and may impose the terms and conditions of the
18 stay of execution. A certified copy of the stay of execution
19 shall be filed with the clerk entering the judgment.

20 ~~(g)–~~

21 (h) When a judgment is satisfied in fact, otherwise
22 than by execution, the Labor Commissioner may, upon
23 the motion of either party or on its own motion, order
24 entry of satisfaction of judgment. The clerk of the court
25 shall enter a satisfaction of judgment upon the filing of a
26 certified copy of the order.

27 ~~(h)–~~

28 (i) The Labor Commissioner shall make every
29 reasonable effort to ensure that judgments are satisfied,
30 including taking all appropriate legal action and
31 requiring the employer to deposit a bond as provided in
32 Section 240.

33 ~~(i)–~~

34 (j) The judgment creditor, or the Labor
35 Commissioner as assignee of the judgment creditor, shall
36 be entitled to court costs and reasonable attorney fees for
37 enforcing the judgment ~~which~~ *that* is rendered pursuant
38 to this section.

39 SEC. 4. Section 98.7 of the Labor Code is amended to
40 read:

1 98.7. (a) Any person who believes that he or she has
2 been discharged or otherwise discriminated against in
3 violation of any provision of this code under the
4 jurisdiction of the Labor Commissioner may file a
5 complaint with the division within six months after the
6 occurrence of the violation. The six-month period may be
7 extended for good cause. The complaint shall be
8 investigated by a discrimination complaint investigator in
9 accordance with this section. The Labor Commissioner
10 shall establish procedures for the investigation of
11 discrimination complaints. A summary of the procedures
12 shall be provided to each complainant and respondent at
13 the time of initial contact. The Labor Commissioner shall
14 inform complainants charging a violation of Section 6310
15 or 6311, at the time of initial contact, of his or her right to
16 file a separate, concurrent complaint with the United
17 States Department of Labor within 30 days after the
18 occurrence of the violation.

19 (b) Each complaint of unlawful discharge or
20 discrimination shall be assigned to a discrimination
21 complaint investigator, who shall prepare and submit a
22 report to the Labor Commissioner based on an
23 investigation of the complaint. The Labor Commissioner
24 may designate the chief deputy or assistant Labor
25 Commissioner or the chief counsel to receive and review
26 the reports. The investigation shall include, where
27 appropriate, interviews with the complainant,
28 respondent, and any witnesses who may have
29 information concerning the alleged violation, and a
30 review of any documents ~~which~~ *that* may be relevant to
31 the disposition of the complaint. The identity of witnesses
32 shall remain confidential unless the identification of ~~the~~
33 *a* witness becomes necessary to proceed with the
34 investigation or to prosecute an action to enforce a
35 determination. The investigation report submitted to the
36 Labor Commissioner or designee shall include the
37 statements and documents obtained in the investigation,
38 and the findings of the investigator concerning whether
39 a violation occurred. The Labor Commissioner may hold
40 an investigative hearing whenever the Labor

1 Commissioner determines, after review of the
2 investigation report, that a hearing is necessary to fully
3 establish the facts. In the hearing the investigation report
4 shall be made a part of the record and the complainant
5 and respondent shall have the opportunity to present
6 further evidence. The Labor Commissioner shall issue,
7 serve, and enforce any necessary subpoenas.

8 (c) If the Labor Commissioner determines a violation
9 has occurred, he or she shall notify the complainant and
10 respondent and direct the respondent to cease and desist
11 from the violation and take ~~such~~ action as is deemed
12 necessary to remedy the violation, including, where
13 appropriate, rehiring or reinstatement, reimbursement
14 of lost wages and interest thereon, payment of reasonable
15 attorney's fees associated with any hearing held by the
16 Labor Commissioner in investigating the complaint, and
17 the posting of notices to employees. If the respondent
18 does not comply with the order within 10 working days
19 following notification of the Labor Commissioner's
20 determination, the Labor Commissioner shall bring an
21 action promptly in an appropriate court against the
22 respondent. If the Labor Commissioner fails to bring an
23 action in court promptly, the complainant may bring an
24 action against the Labor Commissioner in any
25 appropriate court for a writ of mandate to compel the
26 Labor Commissioner to bring an action in court against
27 the respondent. If the complainant prevails in his or her
28 action for a writ *of mandate*, the court shall award the
29 complainant court costs and reasonable attorney's fees,
30 notwithstanding any other provision of law. Regardless of
31 any delay in bringing an action in court, the Labor
32 Commissioner shall not be divested of jurisdiction. In ~~any~~
33 ~~such~~ *the* action, the court may permit the claimant to
34 intervene as a party plaintiff to the action and shall have
35 jurisdiction, for cause shown, to restrain the violation and
36 to order all appropriate relief. Appropriate relief
37 includes, but is not limited to, rehiring or reinstatement
38 of the complainant, reimbursement of lost wages and
39 interest thereon, and any other compensation or
40 equitable relief ~~as~~ *that* is appropriate under the

1 circumstances of the case. The Labor Commissioner shall
2 petition the court for appropriate temporary relief or a
3 restraining order unless he or she determines good cause
4 exists for not doing so.

5 (d) If the Labor Commissioner determines no
6 violation has occurred, he or she shall notify the
7 complainant and respondent and shall dismiss the
8 complaint. The Labor Commissioner may direct the
9 complainant to pay reasonable attorney's fees associated
10 with any hearing held by the Labor Commissioner if the
11 Labor Commissioner finds the complaint was frivolous,
12 unreasonable, groundless, and was brought in bad faith.
13 The complainant may, after notification of the Labor
14 Commissioner's determination to dismiss a complaint,
15 bring an action in an appropriate court, which shall have
16 jurisdiction to determine whether a violation occurred,
17 and if so, to restrain the violation and order all
18 appropriate relief to remedy the violation. Appropriate
19 relief includes, but is not limited to, rehiring or
20 reinstatement of the complainant, reimbursement of lost
21 wages and interest thereon, and ~~such~~ other compensation
22 or equitable relief as *that* is appropriate under the
23 circumstances of the case. When dismissing a complaint,
24 the Labor Commissioner shall advise the complainant of
25 his or her right to bring an action in an appropriate court
26 if he or she disagrees with the determination of the Labor
27 Commissioner, and in the case of an alleged violation of
28 Section 6310 or 6311, to file a complaint against the state
29 program with the United States Department of Labor.
30 *The filing of a timely complaint against the state program*
31 *with the United States Department of Labor shall vacate*
32 *the Labor Commissioner's dismissal of the person's*
33 *complaint against the respondent, pending the issuance*
34 *of findings by the United States Department of Labor.*
35 *Within 15 days of the receipt of those findings the Labor*
36 *Commissioner shall notify the parties of the reopening of*
37 *the investigation of the person's complaint against the*
38 *respondent, or shall issue a new determination of the*
39 *complaint pursuant to subdivision (c) or this subdivision.*

(e) The Labor Commissioner shall notify the complainant and respondent of his or her determination under subdivision (c) or (d); not later than 60 days after the filing of the complaint. Determinations by the Labor Commissioner under subdivision (c) or (d) may be appealed by the complainant or respondent to the Director of Industrial Relations within 10 days following notification of the determination. The appeal shall set forth specifically and in full detail the grounds upon which the appealing party considers the Labor Commissioner's determination to be unjust or unlawful, and every issue to be considered by the director. The director may consider any issue relating to the initial determination and may modify, affirm, or reverse the Labor Commissioner's determination. The director's determination shall be the determination of the Labor Commissioner. The director shall notify the complainant and respondent of his or her determination within 10 days of receipt of the appeal.

(f) The rights and remedies provided by this section do not preclude an employee from pursuing any other rights and remedies under any other ~~provisions~~ provision of law. *An employee may file a civil judicial action without exhausting his or her administrative remedies concerning the alleged violation of any of the discrimination provisions under the jurisdiction of the Labor Commissioner, and may seek whatever relief would be available from the Labor Commissioner under this section, in addition to any other relief that may be available under any other provision of law. The limitation period for filing a complaint with the Labor Commissioner under subdivision (a) shall not apply to any civil action filed by an employee under this subdivision.*

SEC. 5. Section 100.6 is added to the Labor Code, to read:

100.6. (a) As used in this section, "substantial shareholder" and "parent" have the same meanings as in Section 3717.

1 (b) In any proceeding under Section 98 in which
2 unpaid wages or penalties are claimed to be owed by a
3 corporation, the Labor Commissioner may cause
4 substantial shareholders and parents to be joined as
5 parties.

6 (c) In any action filed against a corporation for unpaid
7 wages or penalties pursuant to Section 98.3, 218.5, 1193.6,
8 or 1194, substantial shareholders and its parent may be
9 joined as defendants.

10 (d) In the event that the Labor Commissioner or the
11 court finds a corporation liable for unpaid wages or
12 penalties, the following persons shall be jointly and
13 severally liable with the corporation:

14 (1) The parent of the corporation.

15 (2) All substantial shareholders of the corporation or
16 its parent.

17 (e) The rights and remedies provided by this section
18 are not exclusive and do not preclude an employee or the
19 Labor Commissioner from pursuing any other rights and
20 remedies against any persons under any other provision
21 of law.

22 SEC. 6. Section 100.7 is added to the Labor Code, to
23 read:

24 100.7. A successor to any employer that owes wages to
25 former employees is liable for those wages if any of the
26 following are applicable:

27 (a) The successor uses substantially the same facilities
28 or workforce to produce substantially the same products
29 for substantially the same type of customers as the
30 predecessor employer.

31 (b) The successor shares the ownership, management,
32 control of labor relations, or interrelations of business
33 operations with the predecessor.

34 (c) The successor has in its employ in a managerial
35 capacity any person who directly or indirectly controlled
36 the wages, hours, or working conditions of the affected
37 employees of the predecessor employer.

38 (d) The successor is an individual who is an immediate
39 family member of any owner, partner, officer, or director

1 of the predecessor employer or of any person who had a
2 financial interest in the predecessor employer.

3 SEC. 7. Section 203.1 of the Labor Code is amended
4 to read:

5 203.1. If an employer ~~in the building and construction~~
6 ~~industry~~ pays an employee in the regular course of
7 employment or in accordance with ~~Sections~~ Section 201
8 ~~and, 201.5, 201.7, or 202~~ any wages or fringe benefits, or
9 both, by check, draft or voucher, which check, draft or
10 voucher is subsequently refused payment because the
11 employer or maker has no account with the bank,
12 institution, or person on which *the instrument is* drawn,
13 or *has* insufficient funds ~~to his in the account upon which~~
14 ~~the instrument is drawn~~ at the time of *its* presentation, so
15 long as the same is presented within 30 days of receipt by
16 the employee of the check, draft or voucher, ~~such those~~
17 wages or fringe benefits, or both, shall continue as a
18 penalty from the due date thereof at the same rate until
19 paid or until an action therefor is commenced, ~~but such~~.
20 *However, those wages and fringe benefits shall not*
21 *continue for more than 30 days, provided, however, that*
22 ~~the said and this~~ penalty shall not apply if the employer
23 can establish to the satisfaction of the Labor
24 Commissioner or an appropriate court of law that the ~~said~~
25 violation of this section was unintentional. *This penalty is*
26 *in addition to, and independent and apart from, any other*
27 *penalty in this article.*

28 SEC. 8. Section 218.5 of the Labor Code is amended
29 to read:

30 218.5. In any action brought for the nonpayment of
31 wages, fringe benefits, or health and welfare or pension
32 fund contributions, the court shall award reasonable
33 attorney's fees and costs to the prevailing party if any
34 party to the action requests attorney's fees and costs upon
35 the initiation of the action. This section shall not apply to
36 an action brought by the Labor Commissioner. This
37 section shall not apply to a surety issuing a bond pursuant
38 to Chapter 9 (commencing with Section 7000) of Division
39 3 of the Business and Professions Code or to an action to
40 enforce a mechanics lien brought under Chapter 2

1 (commencing with Section 3109) of Title 15 of Part 4 of
2 Division 3 of the Civil Code.

3 *This section does not apply to any action for which*
4 *attorney's fees are recoverable under Section 1194.*

5 SEC. 9. Section 218.6 is added to the Labor Code, to
6 read:

7 218.6. In any action brought for the nonpayment of
8 wages, the court shall award interest on all due and
9 unpaid wages at the rate of interest specified in
10 subdivision (b) of Section 3289 of the Civil Code, which
11 shall accrue from the date that the wages were due and
12 payable as provided in Part 1 (commencing with Section
13 200) of Division 2.

14 SEC. 10. Section 226 of the Labor Code is amended to
15 read:

16 226. (a) Every employer shall, semimonthly, or at
17 the time of each payment of wages, furnish each of his or
18 her employees, either as a detachable part of the check,
19 draft, or voucher paying the employee's wages, or
20 separately when wages are paid by personal check or
21 cash, an itemized statement in writing showing: (1) gross
22 wages earned; (2) total hours worked by ~~each~~ *the*
23 ~~employee whose compensation is based on an hourly~~
24 ~~wage;~~ (3), *except for any employee whose compensation*
25 *is solely based on a salary and who is exempt from*
26 *payment of overtime under Section 515 or any applicable*
27 *order of the Industrial Welfare Commission,* (3) *the*
28 *number of piece rate units earned and any applicable*
29 *piece rate if the employee is paid on a piece-rate basis,* (4)
30 all deductions; provided, that all deductions made on
31 written orders of the employee may be aggregated and
32 shown as one item; ~~(4),~~ (5) net wages earned; ~~(5),~~ (6) the
33 inclusive dates of the period for which the employee is
34 paid; ~~(6),~~ (7) the name of the employee and his or her
35 social security number; ~~and~~ ~~(7),~~ (8) the name and
36 address of the legal entity ~~which~~ *that* is the employer, and
37 (9) *all applicable hourly rates in effect during the pay*
38 *period and the corresponding number of hours worked at*
39 *each hourly rate by the employee.*

1 The deductions made from ~~each~~ payments of wages
2 shall be recorded in ink or other indelible form, properly
3 dated, showing the month, day, and year, and a copy of
4 the statement, or a record of the deductions, shall be kept
5 on file by the employer for at least three years at the place
6 of employment or at a central location within the State of
7 California.

8 An employer ~~who~~ *that* is required by this code or any
9 regulation adopted pursuant to this code to keep the
10 information required by this section shall afford current
11 and former employees the right to inspect or copy the
12 records pertaining to that current or former employee,
13 upon reasonable request to the employer. The employer
14 may take reasonable steps to assure the identity of a
15 current or former employee. If the employer provides
16 copies of the records, the actual cost of reproduction may
17 be charged to the current or former employee.

18 This section ~~shall~~ *does* not apply to any employer of any
19 person employed by the owner or occupant of a
20 residential dwelling whose duties are incidental to the
21 ownership, maintenance, or use of the dwelling,
22 including the care and supervision of children, or whose
23 duties are personal and not in the course of the trade,
24 business, profession, or occupation of the owner or
25 occupant.

26 (b) Any employee suffering injury as a result of a
27 knowing and intentional failure by an employer to
28 comply with subdivision (a) shall be entitled to recover
29 *the greater of* all actual damages or one hundred dollars
30 *(\$100) for each pay period in which a violation occurs,*
31 *not exceeding an aggregate penalty of ten thousand*
32 *dollars (\$10,000), ~~whichever is greater, plus~~ and shall be*
33 *entitled to an award of costs and reasonable ~~attorney~~*
34 *attorney's fees. Any aggrieved employee may seek*
35 *recovery of the damages or penalty provided for in this*
36 *section by filing a complaint pursuant to subdivision (a)*
37 *of Section 98 or bringing a civil action.*

38 (c) This section ~~shall~~ *does* not apply to the state, or any
39 city, county, city and county, district, or any other
40 governmental entity.

1 SEC. 11. Section 226.3 of the Labor Code is amended
2 to read:

3 226.3. Any employer ~~who~~ *that* violates subdivision (a)
4 of Section 226 shall be subject to a civil penalty in the
5 amount of two hundred fifty dollars (\$250) per employee
6 per violation in an initial citation and one thousand dollars
7 (\$1,000) per employee for each violation in a subsequent
8 citation, for which the employer fails to provide the
9 employee a wage deduction statement or fails to keep the
10 records required in subdivision (a) of Section 226. *In the*
11 *event that an employer fails to maintain records that*
12 *identify each employee to whom wages are paid, the*
13 *penalties under this section shall be computed by*
14 *multiplying the number of employees employed on the*
15 *date the penalty is assessed by the 24 semimonthly pay*
16 *periods of the immediately preceding 12 months, but the*
17 *employer may affirmatively establish that the evidence*
18 *supports a lesser penalty based upon proof of a lesser*
19 *number of affected employees. The civil penalties*
20 *provided for in this section are in addition to any other*
21 *penalty provided by law. In enforcing this section, the*
22 *Labor Commissioner shall take into consideration*
23 *whether the violation was inadvertent; and, in his or her*
24 *discretion, may decide not to penalize an employer for a*
25 *first violation when that violation was due to a clerical*
26 *error or inadvertent mistake.*

27 SEC. 12. Section 226.7 is added to the Labor Code, to
28 read:

29 226.7. (a) No employer shall require any employee to
30 work during any meal or rest period mandated by an
31 applicable order of the Industrial Welfare Commission.

32 (b) An employer that violates this section shall be
33 subject to both of the following:

34 (1) A civil penalty of fifty dollars (\$50) per employee
35 per violation.

36 (2) Payment to the aggrieved employee of an amount
37 equal to twice his or her average hourly rate of
38 compensation for the full length of the meal or rest
39 periods during which the employee was required to
40 perform any work. An employee paid on a piecework

1 basis shall be entitled to an amount equal to twice the
2 amount of piecework units earned during those periods,
3 but in no event shall the amount be less than the
4 applicable state minimum wage for the full length of
5 those time periods during which any work was
6 performed.

7 (c) Any employee aggrieved by a violation of this
8 section may do either of the following:

9 (1) Seek recovery of payments under paragraph (2) of
10 subdivision (b) through a complaint filed pursuant to
11 subdivision (a) of Section 98.

12 (2) Seek recovery of payments under paragraph (2) of
13 subdivision (b) in a civil action. The court shall award a
14 prevailing plaintiff in such an action reasonable
15 attorney's fees.

16 SEC. 13. Section 240 of the Labor Code is amended to
17 read:

18 240. (a) If any employer has been convicted of a
19 violation of any provision of this article, or if any
20 judgment against an employer for ~~nonpayment of unpaid~~
21 wages, interest, penalties, or other demands for
22 compensation within the jurisdiction of the Labor
23 Commissioner remains unsatisfied for a period of 10 days
24 after the time to appeal therefrom has expired, and no
25 appeal therefrom is then pending, the Labor
26 Commissioner may require the employer to deposit a
27 bond in ~~such a sum as that~~ the Labor Commissioner ~~may~~
28 ~~deem~~ deems sufficient and adequate in the
29 circumstances, ~~to be approved by the Labor~~
30 ~~Commissioner~~. The bond shall be payable to the Labor
31 Commissioner and shall be conditioned that the
32 employer shall, for a definite future period, not exceeding
33 six months, pay the employees in accordance with the
34 provisions of this article, and shall be further conditioned
35 upon the payment by the employer of any *unsatisfied*
36 judgment ~~which may be recovered~~ against the employer
37 ~~pursuant to the provisions of this article for unpaid wages,~~
38 *interest, penalties, or other demands within the*
39 *jurisdiction of the Labor Commissioner.*

1 (b) If within 10 days after demand for the bond, which
2 demand may be made by mail, the employer fails to
3 deposit the bond, the Labor Commissioner may bring an
4 action in the name and on behalf of the people of the State
5 of California against the employer in a court of competent
6 jurisdiction to compel the employer to furnish the bond
7 or to cease doing business until the employer has done so.
8 The employer has the burden of proving either that the
9 bond is unnecessary or that the amount demanded is
10 excessive. If the court finds that there is just cause for
11 requiring the bond, and that the bond is reasonably
12 necessary or proper to secure prompt payment of ~~the~~
13 ~~wages of the employees of the employer and any~~
14 ~~unsatisfied judgment against the employer for unpaid~~
15 ~~wages, interest, penalties, or other demands within the~~
16 ~~jurisdiction of the Labor Commissioner or for the~~
17 employer's compliance with the provisions of this article,
18 the court may enjoin the employer, whether an
19 individual, partnership, corporation, company, trust, or
20 association, and ~~such~~ any other person or persons ~~as that~~
21 may have been or may be concerned with, or in any way
22 ~~participating~~ participated in, the failure to pay the wages
23 resulting in the ~~conviction or in the~~ judgment, from doing
24 business until the requirement is met, and make other
25 and further orders appropriate to compel compliance
26 with the requirement.

27 SEC. 14. Section 245 is added to the Labor Code, to
28 read:

29 245. Whenever the Labor Commissioner makes an
30 award against an employer pursuant to this chapter, upon
31 finding that the employer has engaged in a pattern and
32 practice of violating wage and hours laws, the Labor
33 Commissioner shall also make an order requiring the
34 employer to post a notice at the place of employment
35 where the affected employees are or were employed
36 containing a description of the nature of the violation, a
37 declaration by the employer stating that it will not engage
38 in those unlawful acts in the future, and the address and
39 telephone number of the Labor Commissioner. The
40 notice, on a form approved by the Labor Commissioner,

1 shall be posted conspicuously by the employer for a
2 period of not less than 60 days. The notice shall bear the
3 seal of the State of California and of the Labor
4 Commissioner and the signature of the employer or a
5 representative or agent of the employer. The cost of
6 producing and posting the notice shall be paid by the
7 employer. The failure or refusal of an employer to post
8 the notice in accordance with this section shall subject the
9 employer to a civil penalty, to be assessed and collected
10 by the Labor Commissioner, in the amount of five
11 hundred dollars (\$500) for each instance in which the
12 employer fails or refuses to post a notice as required by
13 this section, and the employer shall be required to
14 properly post the notice.

15 SEC. 15. Section 350 of the Labor Code is amended to
16 read:

17 350. As used in this article, unless the context indicates
18 otherwise:

19 (a) “Employer” means every person engaged in any
20 business or enterprise in this ~~State, which~~ *state that* has
21 one or more persons in service under any appointment,
22 contract of hire, or apprenticeship, express or implied,
23 oral or written, irrespective of whether ~~such~~ *the* person
24 is the owner of the business or is operating on a
25 concessionaire or other basis.

26 (b) “Employee” means every person, including aliens
27 and minors, rendering actual service in any business for
28 an employer, whether gratuitously or for wages or pay
29 ~~and~~, whether ~~such~~ *the* wages or pay are measured by the
30 standard of time, piece, task, commission, or other
31 method of calculation, and whether ~~such~~ *the* service is
32 rendered on a commission, concessionaire, or other basis.

33 (c) “Employing” includes hiring, or in any way
34 contracting for, the services of an employee.

35 (d) “Agent” means every person other than the
36 employer having the authority to hire or discharge any
37 employee or supervise, direct, or control the acts of
38 employees.

39 (e) “Gratuity” includes any tip, gratuity, money, or
40 part thereof, ~~which~~ *that* has been paid or given to or left

1 for an employee by a patron of a business over and above
2 the actual amount due ~~such~~ *the* business for services
3 rendered or for goods, food, drink, or articles sold or
4 served to ~~such~~ *the* patron. *Any amounts paid directly by*
5 *a patron to a dancer employed by an employer subject to*
6 *Industrial Welfare Commission Order No. 5 or 10 shall be*
7 *deemed a gratuity.*

8 (f) “Business” means any business establishment, or
9 enterprise, regardless of where conducted.

10 SEC. 16. Section 351 of the Labor Code is amended to
11 read:

12 351. No employer or agent shall collect, take, or
13 receive any gratuity or a part thereof; *that is* paid, given
14 to, or left for an employee by a patron, or deduct any
15 amount from wages due an employee on account of ~~such~~
16 *a* gratuity, or require an employee to credit the amount,
17 or any part thereof, of ~~such~~ *a* gratuity against and as a part
18 of the wages due the employee from the employer. Every
19 ~~such~~ gratuity is hereby declared to be the sole property
20 of the employee or employees to whom it was paid, given,
21 or left for. ~~This section shall not apply to any employment~~
22 ~~in which no charge is made to a patron for services~~
23 ~~rendered to the patron by an employee on behalf of his~~
24 ~~employer if both of the following conditions are met: (a)~~
25 ~~the employee is receiving a wage or salary not less than~~
26 ~~the higher of the state or federal minimum wage,~~
27 ~~regardless of whether such employee is subject to either~~
28 ~~such minimum wage law, and (b) the employee’s wage~~
29 ~~or salary is guaranteed and paid in full irrespective of the~~
30 ~~amount of tips received by the employee. An employer~~
31 ~~that permits patrons to pay gratuities by credit card shall~~
32 ~~pay the employees the full amount of the gratuity that the~~
33 ~~patron indicated on the credit card slip, without any~~
34 ~~deductions for any credit card payment processing fees~~
35 ~~or costs that may be charged to the employer by the~~
36 ~~credit card company. Payment of gratuities made by~~
37 ~~patrons using credit cards shall be made to the employees~~
38 ~~not later than the next regular payday following the date~~
39 ~~the patron authorized the credit card payment.~~

1 SEC. 17. Section 1174 of the Labor Code is amended
2 to read:

3 1174. Every person employing labor in this state shall:

4 (a) Furnish to the commission, at its request, reports
5 or information—~~which~~ *that* the commission requires to
6 carry out this chapter. The reports and information shall
7 be verified if required by the commission or any member
8 thereof.

9 (b) Allow any member of the commission or the
10 employees of the Division of Labor Standards
11 Enforcement free access to the place of business or
12 employment of the person to secure any information or
13 make any investigation—~~which~~ *that* they are authorized by
14 this chapter to ascertain or make. The commission may
15 inspect or make excerpts, relating to the employment of
16 employees, from the books, reports, contracts, payrolls,
17 documents, or papers of the person.

18 (c) Keep a record showing the names and addresses of
19 all employees employed and the ages of all minors.

20 (d) Keep, at a central location in the state or at the
21 plants or establishments at which employees are
22 employed, payroll records showing the hours worked
23 daily by; and the wages paid to, *and the number of*
24 *piece-rate units earned by and any applicable piece rate*
25 *paid to*, employees employed at the respective plants or
26 establishments,—~~and which~~. *These records* shall be kept in
27 accordance with rules established for this purpose by the
28 commission, but in any case shall be kept on file for not
29 less than two years.

30 SEC. 18. Section 1174.5 of the Labor Code is amended
31 to read:

32 1174.5. (a) Any person employing labor who willfully
33 fails to maintain the records required by subdivision (c)
34 of Section 1174 or accurate and complete records
35 required by subdivision (d) of Section 1174 *or by the*
36 *applicable wage orders of the Industrial Welfare*
37 *Commission*, or to allow any member of the commission
38 or employees of the division to inspect records pursuant
39 to subdivision (b) of Section 1174, shall be subject to a civil
40 penalty of ~~five~~ *one* hundred dollars ~~(\$500)~~ *(\$100)* per

1 *employee for each payroll period during which the*
2 *violation occurs, up to a maximum period of three years.*

3 SEC. 19. Section 1194.2 of the Labor Code is amended
4 to read:

5 1194.2. (a) In *any proceeding before the Labor*
6 *Commissioner, or any action under Section 1193.6 or*
7 ~~Section~~ 1194, to recover wages because of the payment of
8 a wage less than the minimum wage fixed by an order of
9 the commission, an employee shall be entitled
10 *additionally* to recover liquidated damages in an amount
11 equal to the wages unlawfully unpaid and interest
12 thereon. Nothing in this subdivision shall be construed to
13 authorize the recovery of liquidated damages for failure
14 to pay overtime compensation.

15 (b) Notwithstanding subdivision (a), if the employer
16 demonstrates to the satisfaction of the *Labor*
17 *Commissioner or the court* that the act or omission giving
18 rise to the action was in good faith and that the employer
19 had reasonable grounds for believing that the act or
20 omission was not a violation of any provision of the Labor
21 Code relating to minimum wage, or an order of the
22 commission, the *Labor Commissioner or the court* may,
23 in ~~its~~ *the discretion of the Labor Commissioner or the*
24 *court as the case may be*, refuse to award liquidated
25 damages or award any amount of liquidated damages not
26 exceeding the amount specified in subdivision (a).

27 (c) This section only ~~shall apply~~ *applies* to civil actions
28 commenced on or after January 1, 1992.

29 SEC. 20. Section 1197.1 of the Labor Code is amended
30 to read:

31 1197.1. (a) Any employer or other person, acting
32 either individually or as an officer, agent, or employee of
33 another person, who pays or causes to be paid to any
34 employee a wage less than the minimum fixed by an
35 order of the commission shall be subject to a civil penalty
36 *and restitution* as follows:

37 (1) For any initial violation that is intentionally
38 committed, fifty dollars (\$50) for each underpaid
39 employee for each pay period for which the employee is
40 underpaid, *in addition to an amount sufficient to recover,*

1 *on behalf of the affected employees, all underpaid wages,*
2 *any owed interest thereon, and statutory liquidated*
3 *damages.*

4 (2) For each subsequent violation for the same specific
5 offense, two hundred fifty dollars (\$250) for each
6 underpaid employee for each pay period for which the
7 employee is underpaid, regardless of whether the initial
8 violation is intentionally committed, *in addition to an*
9 *amount sufficient to recover, on behalf of the affected*
10 *employees, all underpaid wages, any interest owed*
11 *thereon, and statutory liquidated damages.*

12 (b) If, upon inspection or investigation, the Labor
13 Commissioner determines that a person has paid or
14 caused to be paid a wage less than the minimum, the
15 Labor Commissioner may issue a citation to the person in
16 violation. The citation may be served personally or by
17 registered mail in accordance with subdivision (c) of
18 Section 11505 of the Government Code. Each citation
19 shall be in writing and shall describe the nature of the
20 violation, including reference to the statutory provision
21 alleged to have been violated. The Labor Commissioner
22 promptly shall take all appropriate action, in accordance
23 with this section, to enforce the citation and to recover
24 the civil penalty *and restitution* assessed in connection
25 with the citation.

26 (c) If a person desires to contest a citation or the
27 proposed assessment of a civil penalty *or restitution*
28 therefor, the person shall, within 15 business days after
29 service of the citation, notify the office of the Labor
30 Commissioner that appears on the citation of his or her
31 request for an informal hearing. The Labor
32 Commissioner or his or her deputy or agent shall, within
33 30 days, hold a hearing at the conclusion of which the
34 citation or proposed assessment of a civil penalty *and*
35 *restitution* shall be affirmed, modified, or dismissed.

36 The decision of the Labor Commissioner shall consist of
37 a notice of findings, findings, and an order, all of which
38 shall be served on all parties to the hearing within 15 days
39 after the hearing by regular first-class mail at the last
40 known address of the party on file with the Labor

1 Commissioner. Service shall be completed pursuant to
2 Section 1013 of the Code of Civil Procedure. Any amount
3 found due by the Labor Commissioner as a result of a
4 hearing shall become due and payable 45 days after notice
5 of the findings and written findings and order have been
6 mailed to the party assessed. A writ of mandate may be
7 taken from this finding to the appropriate superior court.
8 The party shall pay any judgment and costs ultimately
9 rendered by the court against the party for the
10 assessment. The writ shall be taken within 45 days of
11 service of the notice of findings, findings, and order
12 thereon.

13 (d) A person to whom a citation has been issued ~~shall~~
14 *may*, in lieu of contesting a citation pursuant to this
15 section, transmit to the office of the Labor Commissioner
16 designated on the citation the amount *of the civil penalty*
17 *and restitution* specified for the violation within 15
18 business days after issuance of the citation.

19 (e) When no petition objecting to a citation or the
20 proposed assessment of a civil penalty *and restitution* is
21 filed, a certified copy of the citation or proposed civil
22 penalty *and restitution* may be filed by the Labor
23 Commissioner in the office of the clerk of the superior
24 court in any county in which the person assessed has or
25 had a place of business. The clerk, immediately upon the
26 filing, shall enter judgment for the state against the
27 person assessed in the amount shown on the citation or
28 proposed assessment of a civil penalty *and restitution*.

29 (f) When findings and the order thereon are made
30 affirming or modifying a citation or proposed assessment
31 of a civil penalty *and restitution* after hearing, a certified
32 copy of these findings and the order entered thereon may
33 be entered by the Labor Commissioner in the office of the
34 clerk of the superior court in any county in which the
35 person assessed has property or in which the person
36 assessed has or had a place of business. The clerk,
37 immediately upon the filing, shall enter judgment for the
38 state against the person assessed in the amount shown on
39 the certified order.



1 (g) A judgment entered pursuant to this section shall
2 bear the same rate of interest and shall have the same
3 effect as other judgments and be given the same
4 preference allowed by the law on other judgments
5 rendered for claims for taxes. The clerk shall make no
6 charge for the service provided by this section to be
7 performed by him or her.

8 (h) The civil penalties *and restitution* provided for in
9 this section are in addition to any other penalty *or remedy*
10 provided by law.

11 (i) This section shall not apply to any order of the
12 commission relating to household occupations.

13 SEC. 21. No reimbursement is required by this act
14 pursuant to Section 6 of Article XIII B of the California
15 Constitution because the only costs that may be incurred
16 by a local agency or school district will be incurred
17 because this act creates a new crime or infraction,
18 eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition
21 of a crime within the meaning of Section 6 of Article
22 XIII B of the California Constitution.

